

1 I recall.

2 Q I want to direct your attention to your deposition
3 again. This is Mass Media Exhibit 3. It's page 130.

4 A I have it.

5 Q And the part that I'm going to read to you and
6 then ask you about begins with the little page 152, line 3.
7 Now, I'll read from there. Do you see where I'm at?

8 A Yes.

9 Q Q Where did you meet for lunch?

10 A At the Holiday Inn on 131.

11 Q In Kalamazoo?

12 A In Kalamazoo.

13 Q Anyone else present at that lunch beside you
14 and Mr. Dille?

15 A No.

16 Q What was discussed at that lunch?

17 A Mr. Dille knew of -- had become aware of a
18 past interest I had in purchasing WRBR Radio. And he
19 indicated that he also was interested in purchasing WRBR
20 Radio, and that due to circumstances he was not a buyer of
21 WRBR because of present FCC rules and proposed a business
22 relationship with myself and members of his family.

23 Now, what I'd like to focus your attention on next
24 is the question and answers that begin on page 158 of that
25 deposition. And that's on page 131 of our Exhibit 3,

1 beginning at line 7.

2 Are you there with me?

3 A I am.

4 Q Q What happened next in this conversation at
5 the Holiday Inn?

6 A Well, he -- he laid a program on the table
7 and just in the form of notes. It wasn't a proposal.

8 Q What was the program that he laid out as you
9 recall it?

10 A Well, just a thought that if I were
11 interested in becoming a business partner with his family,
12 that this is a possible direction that Mr. Booth would like
13 because he, in turn, also wanted to see that relationship
14 was maintained with Mr. Dille.

15 Q Did Mr. Dille explain to you that Mr. Booth
16 was not willing to wait while Mr. Dille sought a waiver of
17 the cross-ownership rules so that he could acquire the
18 station himself?

19 A That is correct.

20 Q That is correct?

21 A That is correct.

22 Q And did Mr. Dille define what this
23 relationship would like?

24 A Not at that time.

25 Q Did he discuss with you at that time his

1 proposal that there would be an agreement whereby his
2 children could buy out your interest?

3 A Not at that time.

4 Q Did he describe purchase terms for WRBR or
5 anything like that?

6 A Not at that time. Oh, yes -- excuse me. He
7 did.

8 Q What did he say about that?

9 A He said that Mr. -- Mr. Booth was agreeable
10 to the purchase plans that were laid out and ultimately
11 resulted in -- in the deal.

12 Q So, had Mr. Dille, as you understood it,
13 already negotiated the purchase price?

14 A He had already negotiated the purchase price.

15 Q And had he also negotiated the terms under
16 which that purchase price would be paid?

17 A That's correct.

18 Now, Mr. Hicks, what I want you to consider in
19 conjunction with the testimony that I've just read to you is
20 the document that appears in Mass Media Bureau Exhibit 1.

21 MR. HALL: Well, Your Honor, again I think that
22 for fairness --

23 THE COURT: If you have something you want to read
24 in the record, go ahead and do so.

25 MR. HALL: Where Mr. Shook left off I believe was

1 page 159, line 18. Is that right, Mr. Shook?

2 MR. SHOOK: Yes.

3 MR. HALL: Beginning with 19:

4 Q And did you understand those terms to involve
5 seller financing? That is to say, a note would be given to
6 Mr. Booth and the station would be paid for over time?

7 A At that particular meeting, I'm not sure all
8 of that we went into. We just vaguely touched on what it
9 would be.

10 Q What, if anything, was Mr. Dille asking you to
11 agree to at that lunch?

12 A Nothing other than just interest.

13 Q And did you say you were interested?

14 A Well, I said I would certainly think about
15 it.

16 BY MR. SHOOK:

17 Q All right. With that addition, what I would like
18 you to turn to, Mr. Hicks, is Mass Media Exhibit 1, page 31.

19 A Yes, I have it.

20 Q And what I'd like you to do is read to yourself
21 the first two paragraphs and tell me whether or not in your
22 view that those paragraphs are accurate.

23 THE COURT: You want to set a timeframe, Mr.
24 Shook?

25

1 BY MR. SHOOK:

2 Q Well, the timeframe appears in this memo as being
3 August 17, 1993. So, my question I guess should be modified
4 to that extent that as of August 17, 1993, is it your view
5 that the information that appears in the first two
6 paragraphs of this document are accurate or inaccurate?

7 A As of that timeframe, August 17, 1993, those two
8 paragraphs were inaccurate. Not accurate.

9 THE COURT: Insofar as they relate to you?

10 THE WITNESS: As far as they relate to me. That's
11 correct.

12 BY MR. SHOOK:

13 Q So, in other words, the first sentence of the
14 first paragraph where it states that your name, "has
15 indicated his intent to become the controlling interest in
16 an entity that would acquire WRBR," that is inaccurate?

17 A That is inaccurate.

18 Q Now, I believe you testified that your next
19 contact or your next face to face meeting I should say with
20 Mr. Dille is referenced in your appointment calendar that
21 appears as the second page of Pathfinder Exhibit 10? And if
22 you will, just turn to that.

23 A Yes, I have that.

24 Q And that appointment calendar reflects that you
25 had a meeting with Mr. Dille that began at about eight

1 o'clock in the morning in a placed called Schoolcraft?

2 A Yes.

3 Q That's a town, right?

4 A Let's see. It's a town, yes.

5 Q Now, between July 28 and September 2, 1993, I take
6 it you had no face to face contact with Mr. Dille during
7 that period where the topic of WRBR came up?

8 A I do not recall that we had any face to face
9 conversation between those two dates that I have noted in my
10 calendar.

11 Q Did you have any telephone contact?

12 A It's possible and probable. We probably had some
13 sort of telephone conversations, but I don't recall how
14 many. I don't recall the topics of conversation.

15 Q Right. No. The only topic that I'm interested in
16 is WRBR. I recognize that you might have had conversations
17 with Mr. Dille during that period about other matters.

18 A Right.

19 Q But your recollection is that you had no telephone
20 conversations with him about WRBR between July 28 and
21 September, 1993?

22 A No, I didn't mean that. We may have talked about
23 something about WRBR, obviously. But I don't have any
24 recollection of what the topic would have been. But I'm
25 relatively sure we had no face to face conversations unless

1 I have failed to note that. But that's what I could find.
2 The reason I know that is because this is the time that the
3 JSA was presented to me, and that was the subject of our
4 next meeting.

5 Q So, on September 2 you were actually able to
6 review the Joint Sales Agreement itself?

7 A I was, yes.

8 Q With respect to the Joint Sales Agreement, I want
9 to direction your attention to Mass Media Exhibit 1,
10 beginning at page 14. And our exhibit -- what we have,
11 extends from page 14 to page 30 of Mass Media Bureau Exhibit
12 1. And certainly take as long as you need to determine
13 whether or not this was the document that Mr. Dille brought
14 to that September meeting and that you reviewed.

15 A Well, I'm not sure that he brought this document
16 to that meeting. He really brought -- my recollection he
17 brought a sketch to detail out how the Joint Operating
18 Agreement worked. I'm not really sure I saw this at that
19 meeting.

20 Q I see. Did there come a time when you did see
21 this document?

22 A Yes. I'm sure there was.

23 Q Can you give us a rough approximation as to when?

24 A It probably came after -- it probably came after
25 the involvement of Ric Brown or Eric Brown in this matter.

1 That would be my best recollection.

2 Q Could you turn to Mass Media Bureau Exhibit 15,
3 please?

4 A I have that.

5 Q And if I recall from your testimony, this is a
6 copy of a letter that you prepared and sent to Mr. Booth on
7 September 2 --

8 A That's correct --

9 Q -- 1993?

10 A That's correct.

11 Q So, from a sequence of events, you had the meeting
12 with Mr. Dille in the morning and then sometime thereafter
13 on the same day, you prepared and sent off this letter?

14 A That would be correct.

15 Q Now, if you could reconstruct for us what it was
16 you understood the deal to be or the deal that was being
17 proposed as of September 2 that you were willing to go
18 forward with?

19 A Well, Mr. Dille did explain the Joint Sales
20 Agreement. We talked about the new consolidation rules and
21 how we could operate a radio station -- two radio stations
22 that needed a lot of help. And we were really brainstorming
23 a lot of different things. We talked about how we might
24 form this venture. And he brought up at that time, I
25 recall, that it would be nice to have his children involved

1 in this deal. It wasn't -- "I have to have my children
2 involved. It'd be nice to have my children involved for an
3 investment purpose." And I indicated I really probably
4 didn't see any problem with that.

5 We talked about consolidation of the facilities.
6 There was a long laundry list of things I'm just saying
7 brainstorming. How we might structure a deal. I think at
8 that time he did mention to me that maybe he would like
9 eventually down the road to have his children have an
10 interest in buying the radio station amongst a lot of other
11 things.

12 It was also suggested after the completion of all
13 of these -- of this brainstorming and this conversation,
14 that Mr. Booth was very anxious to sell that. John was
15 very, very concerned about the Joint Sales Agreement. He
16 believed in it, and he didn't want to see it disrupted by
17 having someone else come in that may not have the same
18 thoughts he did about the Joint Sales Agreement.

19 And really, that's what was kind of driving this
20 thing and -- in his mind, I think. And he was convincing me
21 that this is the way you have to do business today.

22 And in order to let John Booth know that something
23 was about to happen that would obviously please him and
24 please John and please whoever John was going to be involved
25 in, that let's let Booth know that there's some interest

1 here. So, that's how this came about.

2 Q Now, as of this time, September 2, 1993, what did
3 you understand was going to be in the deal for you that made
4 this deal attractive to you?

5 A At what date again? At this date?

6 Q Right. You've had your meeting with Mr. Dille,
7 and now you're sending the letter off to Mr. Booth. What's
8 in this for you?

9 A I don't know that we even got that far, Jim. This
10 was -- this was kind of a point two in moving to point
11 three. I mean, it was kind of like saying to the -- this is
12 not a commitment to buy a radio station. This is kind of
13 letting the owner that is selling it that there is some
14 interested party out here that might, you know, want to do a
15 deal. So, that's really all this was.

16 We hadn't really gotten to that point yet. I was
17 interested because I looked at it as quite honestly, kind of
18 a fun project. And it looked to me like -- I think I stated
19 yesterday. New things were happening in our business. And
20 I wanted to -- it wasn't a big deal. It wasn't an enormous
21 radio station, but it was a chance to be creative and do
22 something. It was fun. That's kind of the way I viewed it.
23 I wasn't sitting there planning schemes on, you know,
24 percentages and moving somebody in and out and all that sort
25 of thing. That wasn't in my thoughts at all. So, that's

1 how that all came about.

2 Q I can't help this. You were looking for some fun,
3 and this is what you got, huh?

4 A That's got to be the greatest line I've heard.

5 Q You set me up. Looking at this letter, Mass Media
6 Bureau Exhibit 15, the first sentence reads: "This letter
7 will confirm my interest," et cetera.

8 A Correct.

9 Q Now, had you previously had any contact with Mr.
10 Booth or a representative of his to state that you were
11 interested in any way in the purchase of WRBR?

12 A Not to state I was interested. They had contacted
13 me previous, a representative of Mr. Booth, to see if I was
14 interested. And I had looked at the information, and I
15 really told him I wasn't at that time.

16 Q Did you intend to convey by this sentence that
17 there had been an interest expressed previously and you're
18 now confirming it?

19 A No, because I -- I don't know I even thought this
20 related to the previous at all. I mean, when I wrote this,
21 that wasn't my thinking.

22 Q And I'll tell you right off the bat. I realize
23 you're not a lawyer so -- but just that when I read this
24 sentence, I think one interpretation that could be drawn
25 from this is that there had been a --

1 A Previous conversation --

2 Q -- with Mr. Booth.

3 A That was not true.

4 Q That was not true?

5 A No.

6 Q Were you aware of any previous contacts with Mr.
7 Booth by anyone stating that you were going to be
8 interested?

9 A No.

10 Q So, what you mean to convey by this is that you're
11 telling him "I want to involved in this, and this is my
12 first time telling you?"

13 A That's - that was my understanding of what I was
14 writing, yes.

15 Q Now, at that point in time in September of 1993,
16 if you can reconstruct this, what understanding did you have
17 as to what your financial commitment might have to be in
18 order to acquire WRBR?

19 A Well, Mr. Dille had told me that he had -- at this
20 meeting, that he'd get into the more detail about the deal
21 that he had with John Booth, which was entirely different
22 than the one originally had had. And the fact that it was
23 seller financed. I thought that again taking in
24 consideration the JSA and all of the cost-saving measures
25 that we brainstormed about and the fact this guy was willing

1 to sell this thing with basically no money down and you
2 don't pay for it until you generate some cash. I thought
3 that sounded pretty good, to be honest with you.

4 So, that's what I learned, and that's kind of how
5 we progressed.

6 Q And in September of 1993, what understanding did
7 you have as to what your time commitments would be with
8 respect to WRBR?

9 A Well, I realized I would have some time
10 commitments and organization, getting the thing up and
11 running. We hadn't talked specifically about a single
12 general manager. That was part of the brainstorming
13 sessions. But I guess in the back of my head I kind of had
14 this gentlemen that I mentioned yesterday in mind as a good
15 candidate for a general manager who was very experienced and
16 you know, could fit in and do that particular -- those
17 roles. So, I was depending a lot on a good general manager.

18 Q Did you have somebody particular in mind? I mean,
19 I didn't quite catch that.

20 A Oh, yes, I did.

21 Q And that person was?

22 A That person was a person by the name of Mike
23 Kline. It's no relative and not spelled the same way of
24 Steve Klein.

25 But that was just a thought on my part as we're

1 sitting there brainstorming. And I didn't reveal that. I
2 just thought, you know, that'd be a neat position for him
3 and somebody I could trust and depend on, and he knows my
4 style of operation. So, that was my answer to a time
5 commitment.

6 Q That you were going to have a general manager in
7 place --

8 A Yes.

9 Q And that you could operate the station through the
10 general manager.

11 Now, as of September 2, 1993, what understanding
12 did you have as to whether or not Mr. Dille's children would
13 hold an option to acquire any interest of yours at WRBR?

14 A We had no understanding at all.

15 Q Had that even been put forth as a proposal?

16 A In the series of discussions of, again,
17 brainstorming, laundry lists, I believe when the children
18 were mentioned he was talking about this as an investment
19 for his children, and maybe somewhere down the line it could
20 be possible for them to purchase the radio station. And
21 that was just like I -- exactly as I said. It was just a
22 discussion and a quick mention and we all went onto other
23 things.

24 So, there wasn't anything at that point that
25 was -- anything that was agreed to or -- other than this

1 sounds like a pretty good deal, I mean, as far as operations
2 and things.

3 Q I want to take you forward to Mass Media Bureau
4 Exhibit 18.

5 A Yes, sir.

6 Q And my focus at this point is on your initial
7 arrangements with Mr. Brown. I understand from your
8 calendar and from Mr. Brown's testimony that September 6 was
9 Labor Day. I take it you didn't meet with Mr. Brown on
10 Labor Day?

11 A I don't recall ever meeting on Labor Day with Ms.
12 Brown.

13 Q And you took advantage of the holiday. But you
14 did meet with him either on the 7th or sometime in the
15 vicinity of September 6?

16 A No doubt somewhere in that time period.

17 Q Now, it makes reference here to reviewing
18 documents. Do you have any recollection as to what
19 documents it was that you gave -- or you brought to Mr.
20 Brown, if any?

21 A I really don't. I really don't recall.

22 Q Did you make arrangements with Mr. Brown for how
23 much his services would cost?

24 A No.

25 Q Did you have an understanding of what his hourly

1 fee was?

2 A I guess I did. He's done a lot of work for me but
3 I just paid the bills.

4 Q Did you have any understanding as to how his
5 services would be coming to be paid for in the event that
6 you didn't move forward and acquire WRBR?

7 A No.

8 Q Now, as I understand it, with the acquisition of
9 WRBR that Mr. Brown's fee was paid by Hicks Broadcasting of
10 Indiana, LLC?

11 A That's correct.

12 Q And do you have any knowledge as to whether the
13 fee that appears on page 8 of Mass Media Bureau Exhibit 18
14 was paid?

15 A I believe there were -- was a negotiated fee. Not
16 this fee.

17 Q What kind of negotiation was there?

18 A Well, I stepped out of this negotiation. I had a
19 conversation with Mr. Dille because he obviously was
20 involved in a lot of these things. Maybe in conversation we
21 talked about Ric Brown's bill. And I say John made a
22 statement that he thought that was a pretty high bill for
23 what the services provided.

24 I have a very personal friendship with Ric Brown,
25 and I didn't want to interfere or get involved in something

1 that was uncomfortable like trying to beat him up on an
2 attorney bill. And John said, "Let me call Ric Brown." And
3 I believe this is the way it happened, and they negotiated a
4 deal where if I paid them by a certain amount of time, which
5 I understood that their firm was trying to get all the cash
6 in they could on -- like a November time period or some time
7 when they closed their books.

8 So, that was agreeable to them, and there was a
9 reduction on that bill from my understand of those reasons.
10 And that was not my negotiation.

11 Q Now, explain to me if you can why it is that Mr.
12 Dille is negotiating a reduction of a bill that is the
13 responsibility of Hicks Broadcasting of Indiana?

14 A I think it was done just to help me. I think as
15 we were both going through this process together, he felt
16 and he had had some dealings with Ric Brown. He knew of Ric
17 Brown from past acquaintances I believe in high school. And
18 he was the kind of guy that could pick up the phone and say
19 that to Ric Brown. Not -- I wasn't given any direction to
20 do that. I think he just felt, you know, this would -- this
21 is something that he could do and he could help. And it
22 was. It was something I didn't feel comfortable doing. So,
23 that's how that happened.

24 Q Now, if I recall correctly, the guarantee that
25 Booth ultimately required of you with respect to the WRBR

1 deal was not a part of the original proposal as you
2 understood it?

3 A Understand that, yes.

4 Q I take it the guarantee came to your attention
5 some time before you had to actually sign the document?

6 A I believe there was some discussion about that. I
7 don't recall exactly, but I believe there was.

8 Q And just in your own words, what did you
9 understand the guarantee to require of you?

10 A I'm not real sure at this time that I understood
11 what the guarantee required, other than if -- this is the
12 asset purchase point.

13 Q Yes, sir.

14 A That if the sale didn't go through for some
15 reason, then I was obligated for a considerable amount of
16 money, 51 percent I guess of what the guarantee was.

17 Q When the -- did Mr. Brown bring the guarantee to
18 your attention?

19 A I believe he did.

20 Q And you had a discussion with him about the
21 guarantee?

22 A Yeah, I recall probably we did, yes.

23 Q Did you have any reaction to Booth's proposal that
24 you be required to execute a guarantee?

25 A I don't recall that I did.

1 Q In other words, you didn't look at that as a deal
2 breaker?

3 A I didn't look at that as a deal breaker.

4 Q Was it a matter of concern to you?

5 A Not really.

6 Q And could you explain why that's the case?

7 A Well, I -- at that point I didn't really see what
8 obstacles were in the path of not closing that deal. I
9 mean, it was pretty clear in my mind.

10 Q Did you also have an understanding that the
11 guarantee would come into play for whatever reason Hicks
12 Broadcasting -- what ultimately became Hicks Broadcasting of
13 Indiana, LLC was not able to make its payments on the note?

14 A Yes.

15 Q Did there ever come a time when you informed the
16 Crystal Board about the guarantee that you were required to
17 execute in connection with the asset purchase agreement?

18 A I don't think I explained that to them, no.

19 Q Now, at the time you signed the guarantee in
20 connection with the asset purchase agreement, you were still
21 obligated on another guarantee with respect to the Crystal
22 stations, were you not?

23 A I was, yes.

24 Q Did you ever believe that your signing a guarantee
25 in respect to WRBR could be a matter of concern to the

1 Crystal Radio people?

2 A Did I ever think it -- I didn't think it should
3 be, no.

4 Q You didn't think it should? And why is that?

5 A Because I really -- I didn't really think it was
6 any of their concern.

7 Q Would I be correct then that you didn't make the
8 connection between the fact that if you had to come up with
9 the money to honor the guarantee made to WRBR, that that
10 might have some impact on your ability to meet your
11 financial responsibilities with respect to Crystal?

12 A Well, Crystal's operation was a pretty healthy
13 operation. I certainly didn't foresee any problems in
14 meeting that guarantee. I was obligated to that just like
15 Mr. Sackley was obligated to that. And if there were
16 circumstances that we had to meet that guarantee, then those
17 properties certainly could be sold at much more equity than
18 the amount. So, that was not a concern to me, no.

19 Q All right. Just so I understand, the financial
20 situation of the Crystal Radio stations was such that you
21 believed that in the event those stations had to be sold in
22 order to meet your obligation to the bank, that there wasn't
23 going to be any likelihood that you would be reached on the
24 guarantee?

25 A That is correct.

1 Q I want to turn to a new --

2 MR. HALL: If we could check the witness --

3 THE COURT: Do you want to take another five
4 minute recess or what?

5 THE WITNESS: It's fine. We can go till 12:30?

6 THE COURT: Yes.

7 THE WITNESS: That's fine.

8 BY MR. SHOOK:

9 Q I want to turn to another topic now. Do you
10 have -- we have in the record, and I'll direct you to it.
11 It's Mass Media Bureau Exhibit 33.

12 A I have it, yes.

13 Q And this his a facsimile -- a copy of a facsimile
14 that was sent by yourself?

15 A Yes.

16 Q And the date appears -- you can correct me if I'm
17 wrong. It appears to be 11/23?

18 A 11/23. November 23.

19 Q Had you had personal contact with Mr. Campbell by
20 this date?

21 A I had.

22 Q And what was the nature of that contact?

23 A I think Alan and I discussed a lot of the concerns
24 that I had about WRBR. And I asked him I guess reconfirming
25 that what I suspected that he had a lot of knowledge in this

1 because he had worked with Mr. Dille previous. I don't
2 recall the details of the conversation, but I think that
3 would be probably what it would be.

4 So I, in a sense, was -- this was informing Ric
5 Brown of his address and telephone number.

6 Q So, it was your understanding as of November 23
7 that Mr. Campbell was going to be the Washington lawyer for
8 what became Hicks Broadcasting of Indiana?

9 A That's correct.

10 Q I also want to direct your attention to Mass Media
11 Exhibit 40. I take it then it would be the case that prior
12 to December 21, 1993, you had an informal understanding with
13 Mr. Campbell that his law firm would provide representation
14 to what became of Hicks Broadcasting of Indiana, LLC?

15 A I did.

16 Q And that what we're looking at in Mass Media
17 Exhibit 40 is simply the formal document to formalize that
18 relationship?

19 A Evidently this is what he sends to new clients or
20 whatever.

21 Q Did you have an understanding at this time that
22 Mr. Campbell's firm was also providing legal services to Mr.
23 Dille's companies?

24 A Well, I knew that he was -- correct, that he had
25 worked in the past with Mr. Dille. But I also understood

1 and I think it was at this time that Mr. Dille's work with
2 Washington attorneys had focused with Peter Tanonwall who I
3 did not know. But that came somewhere in the line. But I
4 did know that Alan Campbell had done some work with John
5 Dille, yes.

6 Q Now, when the contact was made initially with Mr.
7 Campbell, was that contact that was originated by yourself?

8 A I believe I called Alan, yes.

9 Q Were you the only person who was calling him at
10 the time? Was there somebody else with you on the
11 telephone?

12 A No.

13 Q And the nature of the conversation was basically
14 to have him as your attorney in this venture?

15 A Well, I wanted to talk to him about the WRBR deal
16 and I guess kind of get his view on some of the things that
17 again, that were new in the business and how he viewed them.
18 I think that was kind of the nature of the call.

19 Q Now, did there come a time when you had a
20 conversation with Mr. Campbell about what would be
21 permissible under the Joint Sales Agreement in terms of the
22 services that Pathfinder could provide?

23 A I think along the lines of the accounting memo, I
24 had discussed with Alan some of those concerns. And I think
25 that's kind of how all that kind of came together with Bob

1 Watson and Alan and some of the concerns I had expressed
2 earlier, just to reconfirm. I was pretty sure that all of
3 my concerns were answered, but I think I was -- I just
4 asked, you know, some general questions on how this was
5 involving and what was -- what was permitted in his view and
6 what was not. So --

7 Q I want to direct your attention to Mass Media
8 Exhibit 48, the second page.

9 A Yes, I have this.

10 Q I believe you testified on direct that you
11 received a copy of this document?

12 A I did, uh-huh.

13 Q And it was relatively close in time to the date
14 that appears on the document. Relatively close meaning
15 within several months?

16 A Well, I -- I received it close to that March 4
17 date probably.

18 Q Several weeks -- within several weeks?

19 A Certainly -- probably when it was written. I
20 mean, it was probably within that time period because that
21 was a topic of conversation at that time.

22 Q I want to focus your attention on the second
23 point. And you can just read that to yourself.

24 A Yes.

25 Q Looking at the date of this document, can you --

1 first of all, prior to March 4, 1994, had you made a
2 decision that Mr. Klein was going to be the general manager
3 of WRBR Radio?

4 A I did.

5 Q With whom did you communicate that decision?

6 A To Mr. Dille.

7 Q And anyone else?

8 A I don't believe anyone else.

9 THE COURT: You didn't communicate it to Mr.
10 Klein?

11 THE WITNESS: No, I did not.

12 BY MR. SHOOK:

13 Q And did you communicate it to Mr. Campbell?

14 A I believe in the conversation that I'd had with
15 Alan, I thought Steve Klein would be a good candidate for
16 the joint general manager, yes.

17 Q Did you communicate it with Mr. Watson?

18 A There's a possibility I did. I don't recall
19 specifically.

20 Q Looking at the date of the memo, March 4, 1994,
21 can you give us some timeframe when you determined Mr. Klein
22 was going to be the general manager of WRBR?

23 A It was -- it was close to that -- those time
24 periods. You know, Steve was -- Steve and I had been in a
25 lot of conversation, a lot of communication. And I was

1 learning his methods of operation and kind of evaluating
2 him.

3 I spoke to John Dille as a person that I felt was
4 accepting a person that was already in place, rather than
5 rehiring someone, because he was actually there running
6 the -- at that time the Radio One entity for both. So, as
7 far as dates go and when all of that happened, I really
8 can't tell you, but I had a long period of time to kind of
9 evaluate that in my mind and decide whether that was a good
10 direction or a bad direction.

11 Q At the point in time when you communicated to Mr.
12 Dille that you would want to have Mr. Klein as your general
13 manager, the general manager of WRBR, was there any
14 determination made as to what compensation you would give
15 Mr. Klein for those services?

16 A Yes.

17 Q And what was that?

18 A I think the original compensation was a salary of
19 \$60,000, if I recall. And then we had some bonuses tied to
20 that on the -- at that time, the success of the joint sales
21 venture.

22 Q Was that \$60,000 figure WRBR's commitment?

23 A No, that was to be split 50/50.

24 Q Now, did you have an understanding at that time
25 that \$60,000 was the salary that Mr. Klein was already

1 receiving for his --

2 A You know, I don't know that I knew. I don't know
3 that I asked. I guess I was looking at \$30,000 and thought
4 that was quite attractive.

5 Q It's a pretty good deal for a manager, isn't it?
6 Now, has Mr. Klein's compensation ever changed with respect
7 to WRBR?

8 A Yes.

9 Q And in a general manner, how so?

10 A He's had -- he's had yearly increases in his base
11 salary. He's had a lot of variations to his bonuses. After
12 we got to a certain level, then there were different
13 arrangements as far as the bonuses. It maybe a little more
14 percentage. It may be "x" number percent if he reaches the
15 budget goals that we have laid out. And then maybe a little
16 extra if he exceeds that.

17 It was a period of time here that we wanted
18 instead of lag period of the budget and trying to make it
19 all in the last six months or so, we gave him a little
20 incentive to be at 50 percent of the budget goals at the
21 half of the year point, rather than lagging behind. So,
22 he's well aware of our budget demands on revenue, and he
23 doesn't wait until it may too late at the end of the year to
24 do it.

25 So, there's a lot of little incentives built in.

1 But that \$60,000 -- his base salary, has now grown to say,
2 \$80,000 over that period of time. And then these -- really
3 the big picture is the bonus incentives and that sort of
4 thing.

5 Q This change in salary, this is a change that has
6 been agreed upon between yourself and someone else?

7 A Mr. Dille and I discussed that. And we do this at
8 budget times.

9 Q So, there's been an annual review, if you will, of
10 Mr. Klein's --

11 A That's correct.

12 Q -- compensation?

13 A That's correct.

14 Q And then you and Mr. Dille decide --

15 A That's correct --

16 Q -- how much of an increase, if any, there should
17 be?

18 A That's correct.

19 Q When does your review of Mr. Klein's salary
20 situation --

21 A Well, it'll be right about now. I mean, we're
22 starting the budget proceedings right now for 1999. So,
23 it'll be when we finish up probably at the end of this
24 month. Excuse me. Or the middle of December, in that area.
25 So, we have enough chance to, you know, to sit down and talk

1 to him and then decide. And it's -- it changes every year
2 kind of depending on where we are and where our projections
3 want to go for the next year.

4 Q I want to take you back to 1994 after Hicks
5 Broadcasting of Indiana, LLC has become the licensee. If I
6 understand your testimony correctly, when the budget process
7 occurred, it was at that point that some review of Mr.
8 Klein's situation took place?

9 MR. HALL: Objection, vague. His testimony was
10 two separate budget time periods in 1994.

11 MR. SHOOK: This would be the budget for 1995, not
12 the budget for --

13 MR. HALL: For the nine months of 1994.

14 MR. SHOOK: Correct.

15 MR. HALL: End of '94 before the '95 time period.
16 Thank you for that clarification.

17 MR. SHOOK: Now, that we've thoroughly confused
18 you.

19 THE WITNESS: Restate it, please.

20 BY MR. SHOOK:

21 Q All right. The budget period that I'm focusing on
22 is the one that would have occurred in the latter part of
23 1994 in connection with the 1995 budget.

24 A Yes.

25 Q And what I'm asking is whether the salary review

1 of Mr. Klein that you talked about generally occurred?

2 A We have discussed this every year. And what, you
3 know, particular timeframe and how it fit within the budget
4 time, but it had to be a budget time because it was
5 reflecting the next -- the following year. So, that would
6 be correct.

7 Q So, in late 1994, you and Mr. Dille had some
8 conversations relative to what Mr. Klein's compensation
9 should be?

10 A Yes.

11 Q And you reached an agreement along those lines?

12 A We never disagreed.

13 Q And I think you made a difference to bonus
14 incentives. Did I hear you right there?

15 A That's correct.

16 Q Do you have any knowledge as to whether the bonus
17 incentives are the same for WRBR and WBYT?

18 A I think they had been to a certain period. I
19 think that John has some other areas involving the operation
20 of WBYT that he is given some incremental bonuses in. I'm
21 not sure. My understanding is that some things that concern
22 specifically maybe to his operation and not maybe the joint
23 picture. But I'm -- I'm not sure of those. I don't think
24 they are anything of any magnitude.

25 Q Now, I want to direct your attention back to Mass

1 Media Exhibit 48, the second page.

2 A Yes.

3 Q Now, with respect to item number 5, if you could
4 just read that to yourself.

5 A Yes.

6 Q Now, looking at that numbered provision, this --
7 if I understand this correctly, is designed to have the
8 accounting department of Pathfinder make vendor payments on
9 behalf of WRBR Radio?

10 A That's correct.

11 Q This paragraph does not exclude the possibility of
12 Hicks Broadcasting of Indiana, LLC having its own bank
13 account, does it?

14 A It does not.

15 Q Beginning with April of 1994 when Hicks
16 Broadcasting of Indiana, LLC became the licensee, why was it
17 that Hicks Broadcasting of Indiana, LLC did not open its own
18 bank account?

19 A I believe the answer to that is that there was
20 really no need for a separate bank account. The way we
21 envisioned this accounting agreement to operate at that
22 time, there was just no need to have it because of the way
23 this was structured.

24 Q Now, by "this was structured," are you thinking
25 particularly of the Joint Sales Agreement, or do you have